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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,385	07/23/2003	Winston James Lay	920602-94555	9776
23644 7590 12/19/2006 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786			EXAMINER KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/19/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/626,385	LAY, WINSTON JAMES	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ahshik Kim	2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 7/23/03 (initial filing of application).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's statement of intention to submit a certified copy  
5 of the application filed in United Kingdom.

### *Drawings*

2. This application is filed with informal drawings, which are acceptable for examination  
purposes only. Formal drawings will be required in response to this Office Action or when the  
10 application is allowed. It is also strongly suggested that boxes in figure 1 be labeled, instead of  
being numbered.

### *Specification*

3. The disclosure is objected to because of the following informalities: Insert "BRIEF  
15 DESCRIPTION OF THE DRAWINGS" after "SUMMARY OF THE INVENTION"  
Appropriate correction is required.

### *Claim Objections*

4. Claim 6 is objected to because of the following informalities:  
20 Re claim 6, lines 1-2: it is unclear what is meant by "wherein the integers of the  
apparatus." According to Merriam Webster's Collegiate Dictionary (10<sup>th</sup> edition), integer is  
defined as 1: any of the natural numbers, the negatives of these numbers, or zero; 2: a complete  
entity.

Appropriate rephrasing of the phrase is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the  
5 basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

10 (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hankins (US  
15 6,375,077, hereinafter “Hankins”).

Re claims 1, 5, and 7-9 Hankins discloses a system, an apparatus and the methods for  
advising a user whether or not to purchase a product such as a food item (see abstract; col. 1, line  
1+; col. 1, lines 30+). The product information is stored in the product database 200 which is  
retrieved by a hand-held scanner. The customer swipes the customer card, and his/her profile is  
20 loaded for shopping advice (col. 5, lines 52+).

Re claim 2, the composition or characteristic of food can be one of calorie, fat or salt  
level (col. 1, lines 13-23).

Re claim 3, individual can be sensitive on the items for various reasons (col. 2, lines 45-  
56).

25 Re claim 4, the user can set various parameters for him/her to be warned when a  
parameter (i.e., calorie level or fat content) goes over the respective parameter values (col. 3, line  
64 – col. 4, line 9+).

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Re claim 6, Examiner interpreted “the integers of the apparatus” as “the components of the apparatus.” Hankins, as illustrated in figure 3, discloses that the database is remotely located, and the barcode reader, through store’s central computer retrieves product information from the database.

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### Conclusion

I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Bisogno (US 6,953,342); Shepley (US 6,024,281); Kuroyanagi (US 2001/0005830); Tracy et al. (US 7,107,221); Kocher (US 6,652,455); Moore (US 6,387,049) disclose various  
10 embodiments of systems advising consumers. Applicant is respectfully suggested to carefully review these references.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru  
15 Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax phone number for this Group is (571)273-8300.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

25 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*  
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished  
35 application is available for Private PAIR only. For more information about the PAIR system,

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see <http://pair-direct.uspto.gov>. Should you have any questions or access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Ahshik Kim  
Primary Examiner  
Art Unit 2876  
December 5, 2006

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